

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 2694
By: Lucio III (Creighton)
Business & Commerce
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

C.S.H.B. 2694 amends current law relating to the authority of certain insurers to make investments in bond exchange-traded funds.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 424, Insurance Code, by adding Section 424.075, as follows:

Sec. 424.075. **AUTHORIZED INVESTMENTS: BOND EXCHANGE-TRADED FUNDS.** (a) Authorizes an insurer to invest the insurer's funds in excess of minimum capital and surplus in shares of a bond exchange-traded fund registered under the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.), as amended, if:

(1) the exchange-traded fund is solvent and reported at least \$100 million of net assets in the exchange-traded fund's latest annual or more recent certified audited financial statement;

(2) the securities valuation office has designated the exchange-traded fund as meeting the criteria to be placed on the list promulgated by the securities valuation office of the National Association of Insurance Commissioners (Securities Valuation Office) of exchange-traded funds eligible for reporting as a statutory long-term bond obligations on Internal Revenue Service Form 1040, Schedule D; and

(3) the amount of the insurer's investment in the exchange-traded fund does not exceed 15 percent of the insurer's capital and surplus.

(b) Provides that this section does not authorize an insurer to invest in a bond exchange-traded fund that has:

(1) embedded structural features designed to deliver performance that does not track the full unlevered and positive return of the underlying index or exposure, including a leveraged or inverse exchange-traded fund; or

(2) an expense ratio in excess of 100 basis points.

(c) Authorizes an insurer to deposit with the Texas Department of Insurance (TDI) shares of a bond exchange-traded fund described by Subsection (a) as a statutory deposit if state law requires a statutory deposit from the insurer.

SECTION 2. Amends Subchapter C, Chapter 425, Insurance Code, by adding Section 425.1231, as follows:

Sec. 425.1231. AUTHORIZED INVESTMENTS: BOND EXCHANGE-TRADED FUNDS. (a) Authorizes an insurance company to invest the insurer's funds in excess of minimum capital and surplus in shares of a bond exchange-traded fund registered under the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.), as amended, if:

(1) the exchange-traded fund is solvent and reported at least \$100 million of net assets in the exchange-traded fund's latest annual or more recent certified audited financial statement;

(2) the securities valuation office has designated the exchange-traded fund as meeting the criteria to be placed on the list promulgated by the securities valuation office of exchange-traded funds eligible for reporting as a statutory long-term bond obligation on Internal Revenue Service Form 1040 Schedule D; and

(3) the amount of the insurance company's investment in the exchange-traded fund does not exceed 15 percent of the insurance company's capital and surplus.

(b) Provides that this section does not authorize an insurance company to invest in a bond exchange-traded fund that has:

(1) embedded structural features designed to deliver performance that does not track the full unlevered and positive return of the underlying index or exposure, including a leveraged or inverse exchange-traded fund; or

(2) an expense ratio in excess of 100 basis points.

(c) Requires a bond exchange-traded fund described by Subsection (a) to be considered a business entity for purposes of Section 425.110 (Authorized Investments: Obligations of and Other Investments in Business Entities).

(d) Authorizes an insurance company to deposit with TDI shares of a bond exchange-traded fund described by Subsection (a) as a statutory deposit if state law requires a statutory deposit from the insurance company.

SECTION 3. Effective date: September 1, 2019.